

**UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

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MARK MILLER, MICHELE GANGNES,  
SCOTT COPELAND, LAURA PALMER,  
TOM KLEVEN, ANDY PRIOR,  
AMERICA’S PARTY OF TEXAS,  
CONSTITUTION PARTY OF TEXAS,  
GREEN PARTY OF TEXAS and  
LIBERTARIAN PARTY OF TEXAS,

*Plaintiffs,*

v.

RUTH R. HUGHS, in her official capacity as the  
Secretary of State of the State of Texas,<sup>1</sup> and  
JOSE A. “JOE” ESPARZA, in his official capacity as the  
Deputy Secretary of State of the State of Texas,

*Defendants.*

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Civil No. 1:19-cv-00700-RP

**NOTICE OF PROPOSED SCHEDULING ORDER**

Pursuant to Local Court Rule CV-16, Plaintiffs Mark Miller, Michele Gangnes, Scott Copeland, Laura Palmer, Tom Kleven, Andy Prior, America’s Party of Texas, Constitution Party of Texas, Green Party of Texas, and Libertarian Party of Texas (collectively, the “**Plaintiffs**”) and Ruth R. Hughes, Secretary of State of Texas, and Jose A. Esparza, Deputy Secretary of State of Texas (together, the “**Defendants**”) respectfully submit a Proposed Scheduling Order, attached as

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<sup>1</sup> When this case was filed, the Office of Secretary of State of Texas was vacant. Since that time, Ruth R. Hughes was sworn in as Secretary of State of Texas. *See* FED. R. CIV. P. 25(d), “[a]n action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer’s successor is automatically substituted as a party.”

Exhibit A. This Proposed Scheduling Order is based on Judge Pitman's Proposed Scheduling Order on the Court's website with certain modifications.

Dated: October 7, 2019

Respectfully submitted,

/s/ Anne Marie Mackin

Anne Marie Mackin  
Texas Bar No. 24078898  
Assistant Attorney General  
P.O. Box 12548, Capitol  
Station  
Austin, Texas 78711-2548  
(512) 463-2798 | FAX: (512)  
320-0667  
anna.mackin@oag.texas.gov

***Attorney for Defendants***



David P. Whittlesey  
State Bar No. 00791920  
**SHEARMAN & STERLING LLP**  
111 Congress Avenue, Suite 1700  
Austin, TX 78701  
david.whittlesey@shearman.com  
Tel: +1 (512) 647-1900  
Fax: +1 (512) 647-1899

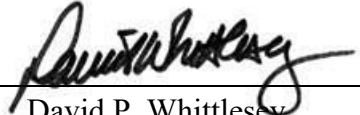
Christopher Ryan (*Pro hac vice*)  
Michael P. Mitchell (*Pro hac vice*)  
Anna Stockamore (*Pro hac vice*)  
**SHEARMAN & STERLING LLP**  
401 9th St. N.W., Suite 800  
Washington, D.C. 20004  
cryan@shearman.com  
michael.mitchell@shearman.com  
anna.stockamore@shearman.com  
Tel: +1 (202) 508-8000  
Fax: +1 (202) 508-8001

Oliver Hall (*Pro hac vice*)  
Center for Competitive Democracy  
P.O. Box 21090  
Washington, DC, 20009  
Email:  
oliverhall@competitivedemocracy.org  
Tel: +1 (202) 248-9294

***Attorneys for Plaintiffs***

**CERTIFICATE OF SERVICE**

I certify that on October 7, 2019, this document was filed electronically via the Court's CM/ECF system, causing electronic service upon all counsel of record.

  
\_\_\_\_\_  
David P. Whittlesey

## **Exhibit A**

**UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF TEXAS  
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MARK MILLER, MICHELE GANGNES,  
SCOTT COPELAND, LAURA PALMER,  
TOM KLEVEN, ANDY PRIOR,  
AMERICA’S PARTY OF TEXAS,  
CONSTITUTION PARTY OF TEXAS,  
GREEN PARTY OF TEXAS and  
LIBERTARIAN PARTY OF TEXAS,

*Plaintiffs,*

v.

JOHN OR JANE DOE, in his or her official capacity as the  
Secretary of State of the State of Texas, and  
JOSE A. “JOE” ESPARZA, in his official capacity as the  
Deputy Secretary of State of the State of Texas,

*Defendants.*

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Civil No. 1:19-cv-00700-RP

**[PROPOSED] SCHEDULING ORDER**

Pursuant to Federal Rule of Civil Procedure 16, the following Scheduling Order is issued  
by the Court:

1. A report on alternative dispute resolution in compliance with Local Rule CV-88 shall be  
filed on or before **November 15, 2019**.
2. The parties asserting claims for relief shall submit a written offer of settlement to  
opposing parties on or before **November 15, 2019**, and each opposing party shall  
respond, in writing, on or before **30 days** following the receipt of such written offer. All  
offers of settlement are to be private, not filed. The parties are ordered to retain the

written offers of settlement and responses so the Court may use them in assessing attorney's fees and costs at the conclusion of the trial.

3. Each party shall complete and file the "Notice Concerning Reference to United States Magistrate Judge" on or before **October 7, 2019**.
4. The parties shall file all motions to amend or supplement pleadings or to join additional parties on or before **March 16, 2020**.
5. All parties asserting claims for relief shall file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **May 1, 2020**. Parties resisting claims for relief shall also file their designation of testifying experts and serve on all parties, but not file, the materials required by Federal Rule of Civil Procedure 26(a)(2)(B) on or before **June 1, 2020**. All parties shall file all designations of rebuttal experts and serve on all parties the material required by Federal Rule of Civil Procedure 26(a)(2)(B) for such rebuttal experts, to the extent not already served, **30 days** from the receipt of the report of the opposing expert.
6. An objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, **within 11 days** from the receipt of the written report of the expert's proposed testimony, or within 11 days from the completion of the expert's deposition, if a deposition is taken, whichever is later. Prior to the deadline, either party may file a motion with the Court to request additional time to submit an objection.
7. The parties shall complete all discovery on or before **July 24, 2020**.
8. All dispositive motions shall be filed on or before **August 24, 2020** and shall be limited to 20 pages. Responses shall be filed and served on all other parties not later than **14 days**

after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than **7 days** after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion. Prior to August 24, 2020, either party may file a motion with the Court to request extensions of time and/or page limitations.

9. The Court will set this case for final pretrial conference at a later time. The final pretrial conference shall be attended by at least one of the attorneys who will conduct the trial for each of the parties and by any unrepresented parties. The parties should consult Local Rule CV-16(e) regarding matters to be filed in advance of the final pretrial conference.
10. This case is set for \_\_\_\_\_ trial commencing at 9:00 a.m. on \_\_\_\_\_, 20\_\_\_\_\_.

By filing an agreed motion, the parties may request that this Court extend any deadline set in this Order, with the exception of the dispositive motions deadline and the trial date. The Court may impose sanctions under Federal Rule of Civil Procedure 16(f) if the parties do not make timely submissions under this Order.

SIGNED on \_\_\_\_\_, 20\_\_\_\_\_.

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ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE